

House Engrossed Senate Bill

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

FILED
MICHELE REAGAN
SECRETARY OF STATE

CHAPTER 340

SENATE BILL 1348

AN ACT

AMENDING SECTIONS 11-634, 11-635, 11-636 AND 11-637, ARIZONA REVISED STATUTES; REPEALING SECTION 11-638, ARIZONA REVISED STATUTES; AMENDING SECTIONS 11-640, 11-645 AND 35-323, ARIZONA REVISED STATUTES; RELATING TO CLAIMS AND WARRANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-634, Arizona Revised Statutes, is amended to
3 read:

4 11-634. Payment of warrants, substitute checks and electronic
5 funds transfers; definitions

6 A. ~~When~~ IF the board of supervisors, the county superintendent of
7 schools or a special district presents a warrant, ~~or~~ substitute check OR
8 ELECTRONIC FUNDS TRANSFER for payment, the county treasurer shall pay it and
9 make a charge against the appropriate account. An electronic image of the
10 original warrant OR AN ELECTRONIC RECORD OF THE ELECTRONIC FUNDS TRANSFER
11 provided by or made available by the servicing bank in a format approved by
12 the county treasurer ~~shall be~~ IS deemed properly presented.

13 B. For the purposes of this section: —

14 1. "Substitute check" ~~and~~ HAS THE SAME MEANING PRESCRIBED IN SECTION
15 9-249.

16 2. "Warrant" ~~have~~ HAS the same meanings MEANING prescribed in section
17 9-249 AND INCLUDES A RECORD FROM WHICH AN ELECTRONIC FUNDS TRANSFER MAY BE
18 MADE.

19 Sec. 2. Section 11-635, Arizona Revised Statutes, is amended to read:

20 11-635. Warrants, substitute checks and electronic funds
21 transfers unpaid for lack of monies; interest;
22 definitions

23 A. If a revolving line of credit has not been obtained for a political
24 subdivision or if the revolving line of credit has been expended, ~~the~~
25 ~~treasurer shall write or stamp on the face of the warrant or substitute check~~
26 ~~"not paid for lack of funds" and the date of presentation, and from that time~~
27 ~~until it is paid, the warrant or substitute check shall bear no more than ten~~
28 ~~per cent interest per year~~ SPENT AND IF THERE ARE INSUFFICIENT MONIES IN THE
29 ISSUER'S ACCOUNT, THE COUNTY TREASURER MAY INVEST IN THE WARRANT, SUBSTITUTE
30 CHECK OR ELECTRONIC FUNDS TRANSFER PRESCRIBED IN SECTION 35-323,
31 SUBSECTION A, PARAGRAPH 7.

32 B. The COUNTY treasurer shall keep a register of warrants and
33 substitute checks AND A RECORD OF ELECTRONIC FUNDS TRANSFERS presented for
34 payment.

35 C. IF THE COUNTY TREASURER DOES NOT INVEST IN THE PRESENTED WARRANT,
36 SUBSTITUTE CHECK OR ELECTRONIC FUNDS TRANSFER, THE COUNTY TREASURER SHALL
37 NOTIFY THE SERVICING BANK THAT THE WARRANT OR SUBSTITUTE CHECK WILL NOT BE
38 PAID FOR LACK OF MONIES AND FROM THAT TIME UNTIL THERE ARE SUFFICIENT MONIES
39 TO PAY THE ORIGINAL WARRANT, THE ORIGINAL WARRANT MAY NOT BEAR MORE THAN TEN
40 PERCENT INTEREST PER YEAR.

41 ~~E.~~ D. For the purposes of this section: —

42 1. "Substitute check" ~~and~~ HAS THE SAME MEANING PRESCRIBED IN SECTION
43 9-249.

2. "Warrant" have HAS the same meanings MEANING prescribed in section 9-249 AND INCLUDES A RECORD FROM WHICH AN ELECTRONIC FUNDS TRANSFER MAY BE MADE.

Sec. 3. Section 11-636, Arizona Revised Statutes, is amended to read:

11-636. Effect on interest after notice of readiness to pay unpaid warrants; notice requirements

A. ~~When~~ IF there ~~is~~ ARE sufficient ~~money~~ MONIES in the treasury to pay the warrants THAT HAVE BEEN RETURNED AND ARE drawing interest, the COUNTY treasurer shall give notice thereof by publication in ~~some~~ A newspaper published in the county, ~~or by POSTING written notice posted at the court house~~ OR ON THE COUNTY'S WEBSITE stating that ~~he~~ THE COUNTY TREASURER is ready to pay the warrants. From the first publication or posting of the notice the warrants ~~shall~~ cease to draw interest.

B. In the notice published in a newspaper, the COUNTY treasurer shall not publish the warrants in detail, but shall give notice ~~only~~ that ONLY county warrants presented for payment ~~prior to such a~~ BEFORE THE date, ~~as stated in the notice,~~ are payable. ~~When~~ IF only part of the warrants presented on the same day are payable, the COUNTY treasurer shall designate the payable warrants in the notice.

Sec. 4. Section 11-637, Arizona Revised Statutes, is amended to read:

11-637. Effect of priority of presentment on preference of payment

Warrants are entitled to preference of payment from ~~money~~ MONIES applicable to the warrants according to priority of presentment. ~~The treasurer, upon receipt of money not otherwise appropriated, shall set it apart or so much thereof as is necessary for payment of the warrants.~~

Sec. 5. Repeal

Section 11-638, Arizona Revised Statutes, is repealed.

Sec. 6. Section 11-640, Arizona Revised Statutes, is amended to read:

11-640. Record of interest paid

~~When~~ IF the COUNTY treasurer pays a warrant on which interest is due, ~~he~~ THE TREASURER shall record the amount of interest paid ~~in the register or call warrant list.~~ The amount of ~~such~~ THE interest shall be entered on ~~his~~ THE account separate from the principal.

Sec. 7. Section 11-645, Arizona Revised Statutes, is amended to read:

11-645. Warrants, substitute checks and electronic funds transfers unpaid for lack of monies; interest; notice; reissued warrants; definitions

A. Notwithstanding sections 11-635, ~~AND 11-636 and 11-638~~, this section applies to each county treasurer of a county in this state that has a population of two million or more persons.

B. If a revolving line of credit has not been obtained for a political subdivision or if the revolving line of credit has been ~~expended~~ SPENT and if there are insufficient ~~funds~~ MONIES in the issuer's account, the COUNTY treasurer ~~shall write or stamp on the face of the~~ MAY INVEST IN THE WARRANT,

1 SUBSTITUTE CHECK OR ELECTRONIC FUNDS TRANSFER PRESCRIBED IN SECTION 35-323,
2 SUBSECTION A, PARAGRAPH 7. IF THE COUNTY TREASURER DOES NOT INVEST IN THE
3 PRESENTED warrant, ~~or~~ substitute check ~~"not~~ OR ELECTRONIC FUNDS TRANSFER, THE
4 COUNTY TREASURER SHALL NOTIFY THE SERVICING BANK THAT THE WARRANT OR
5 SUBSTITUTE CHECK WILL NOT BE paid for lack of funds" ~~and the date of~~
6 ~~presentation,~~ MONIES and from that time until ~~it is paid~~ THERE ARE SUFFICIENT
7 MONIES TO PAY THE ORIGINAL WARRANT, the ORIGINAL warrant ~~or substitute check~~
8 ~~shall~~ MAY NOT bear ~~no~~ more than ten ~~per cent~~ PERCENT interest per year. If a
9 physical warrant is not presented to the COUNTY treasurer but the COUNTY
10 treasurer receives an electronic notice that the warrant was issued, the
11 treasurer shall notify the servicing bank that the warrant will not be paid
12 for lack of funds MONIES, and from that time until there are sufficient funds
13 MONIES to pay the original warrant, the original amount of the warrant ~~shall~~
14 MAY NOT bear ~~no~~ more than ten ~~per cent~~ PERCENT interest per year.

15 C. The COUNTY treasurer shall keep a register of warrants and
16 substitute checks presented for payment AND A RECORD OF ELECTRONIC FUNDS
17 TRANSFERS.

18 D. ~~When~~ IF there ~~is~~ ARE sufficient ~~money~~ MONIES in the treasury to pay
19 the warrants drawing interest and registered pursuant to this section, the
20 COUNTY treasurer shall notify the issuing entity of the availability of the
21 monies. The monies shall be placed in a clearing fund or other appropriate
22 fund that is agreed on by the COUNTY treasurer and district. The issuing
23 entity shall issue new warrants, ~~which shall~~ THAT include the original
24 principal amount and any accrued interest, and notify the COUNTY treasurer of
25 the warrant numbers, amounts and payees.

26 E. ~~When~~ IF only part of the warrants presented on the same day are
27 payable, the COUNTY treasurer shall designate the payable warrants and notify
28 the issuing entity of the warrants to be paid and the warrants to be
29 registered.

30 F. A warrant that is reissued pursuant to this section shall be
31 processed pursuant to section 11-644.

32 G. For the purposes of this section: ~~—~~

33 1. "Substitute check" ~~and~~ HAS THE SAME MEANING PRESCRIBED IN SECTION
34 9-249.

35 2. "Warrant" ~~have~~ HAS the same ~~meanings~~ MEANING prescribed in section
36 9-249 AND INCLUDES A RECORD FROM WHICH AN ELECTRONIC FUNDS TRANSFER MAY BE
37 MADE.

38 Sec. 8. Section 35-323, Arizona Revised Statutes, is amended to read:

39 35-323. Investing public monies; bidding; security and other
40 requirements

41 A. The treasurer shall invest and reinvest public monies in securities
42 and deposits with a maximum maturity of five years. All public monies shall
43 be invested in eligible investments. Eligible investments are:

44 1. Certificates of deposit in eligible depositories.

2. Deposits in one or more federally insured banks or savings and loan associations placed in accordance with the procedures prescribed in section 35-323.01.

3. Interest bearing savings accounts in banks and savings and loan institutions doing business in this state whose accounts are insured by federal deposit insurance for their industry, but only if deposits in excess of the insured amount are secured by the eligible depository to the same extent and in the same manner as required under this article.

4. Repurchase agreements with a maximum maturity of one hundred eighty days.

5. The pooled investment funds established by the state treasurer pursuant to section 35-326.

6. Obligations issued or guaranteed by the United States or any of the senior debt of its agencies, sponsored agencies, corporations, sponsored corporations or instrumentalities.

7. Bonds, notes or other evidences of indebtedness of this state or any of its counties, incorporated cities or towns, school districts or special taxing districts, including registered warrants, SUBSTITUTE CHECKS AND ELECTRONIC FUNDS TRANSFERS that ~~shall~~ bear interest pursuant to section 11-635.

8. Bonds, notes or evidences of indebtedness of any county, municipal district, municipal utility or special taxing district of any state that are payable from revenues, earnings or a special tax specifically pledged for the payment of the principal and interest on the obligations, and for the payment of which a lawful sinking fund or reserve fund has been established and is being maintained, but only if no default in payment on principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if such obligations were issued less than five years before the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased nor any other obligations of the issuer within five years of the investment.

9. Bonds, notes or evidences of indebtedness issued by any county improvement district or municipal improvement district of any state to finance local improvements authorized by law, if the principal and interest of the obligations are payable from assessments on real property within the improvement district. An investment shall not be made if:

(a) The face value of all such obligations, and similar obligations outstanding, exceeds fifty percent of the market value of the real property, and if improvements on which the bonds or the assessments for the payment of principal and interest on the bonds are liens inferior only to the liens for general ad valorem taxes.

(b) A default in payment of principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if the obligations were issued less than five years before the date of investment, a default in the payment of principal or interest has occurred on

1 the obligations to be purchased or on any other obligation of the issuer
2 within five years of the investment.

3 10. Commercial paper of prime quality that is rated within the top two
4 ratings by a nationally recognized rating agency. All commercial paper must
5 be issued by corporations organized and doing business in the United States.

6 11. Bonds, debentures, notes or other evidences of indebtedness that
7 are denominated in United States dollars and that carry at a minimum an "A"
8 or better rating, at the time of purchase, from at least two nationally
9 recognized rating agencies.

10 12. Negotiable or brokered certificates of deposit issued by a
11 nationally or state chartered bank or savings and loan association.

12 13. Securities of or any other interests in any open-end or closed-end
13 management type investment company or investment trust, including exchange
14 traded funds whose underlying investments are invested in securities allowed
15 by state law, registered under the investment company act of 1940 (54 Stat.
16 789; 15 United States Code sections 80a-1 through 80a-64), as amended.

17 B. Certificates of deposit shall be purchased from the eligible
18 depository bidding the highest permissible rate of interest. No monies over
19 one hundred thousand dollars may be awarded at any interest rate less than
20 one hundred three percent of the equivalent bond yield of the offer side of
21 United States treasury bills having a similar term. If the eligible
22 depository offering to pay the highest rate of interest has bid only for a
23 portion of the monies to be awarded, the remainder of the monies shall be
24 awarded to eligible depositories bidding the next highest rates of interest.

25 C. An eligible depository is not eligible to receive total aggregate
26 deposits from this state and all its subdivisions in an amount exceeding
27 twice its capital structure as outlined in the last call of condition of the
28 superintendent of financial institutions.

29 D. If two or more eligible depositories submit bids of an identical
30 rate of interest for all or any portion of the monies to be deposited, the
31 award of the deposit of the monies shall be made to the eligible depository
32 among those submitting identical bids having, at the time of the bid opening,
33 the lowest ratio of total public deposits in relation to its capital
34 structure.

35 E. Each bid submitted, and not withdrawn prior to the time specified,
36 constitutes an irrevocable offer to pay interest as specified in the bid on
37 the deposit, or portion bid for, and the award of a deposit in accordance
38 with this section obligates the depository to accept the deposit and pay
39 interest as specified in the bid pursuant to which the deposit is awarded.

40 F. The treasurer shall maintain a record of all bids received and
41 shall make available to the board of deposit at its next regularly scheduled
42 meeting a correct list showing the bidders, the bids received and the amount
43 awarded. These records shall be available to the public and shall be kept in
44 the possession of the treasurer for not less than two years from the date of
45 the report.

1 G. Any eligible depository, before receiving a deposit in excess of
2 the insured amount under this article, shall deliver collateral for the
3 purposes of this subsection equal to at least one hundred two percent of the
4 deposit. The collateral shall be any of the following:

5 1. A bond executed by a surety company that is approved by the
6 treasury department of the United States and authorized to do business in
7 this state. The bond shall be approved as to form by the legal advisor of
8 the treasurer.

9 2. Securities or instruments of the following character:

10 (a) United States government or agency obligations.

11 (b) State, county, school district and other district municipal bonds.

12 3. The safekeeping receipt of a federal reserve bank or any bank
13 located in a reserve city, or any bank authorized to do business in this
14 state, whose combined capital, surplus and outstanding capital notes and
15 debentures on the date of the safekeeping receipt are ten million dollars or
16 more, evidencing the deposit therein of any securities or instruments
17 described in this section. A safekeeping receipt shall not qualify as
18 security, if issued by a bank to secure its own public deposits, unless
19 issued directly through its trust department. The safekeeping receipt shall
20 show ~~upon~~ ON its face that it is issued for the account of the treasurer and
21 shall be delivered to the treasurer. The safekeeping receipt may provide for
22 the substitution of securities or instruments ~~which~~ THAT qualify under this
23 section with the affirmative act of the treasurer.

24 4. Letters of credit issued by a federal home loan bank if:

25 (a) The letter of credit has been delivered pursuant to this section
26 or chapter 10, article 1 of this title to the statewide collateral pool
27 administrator.

28 (b) The letter of credit meets the required conditions of:

29 (i) Being irrevocable.

30 (ii) Being issued, presentable and payable at a federal home loan bank
31 in United States dollars. Presentation may be made by the beneficiary
32 submitting the original letter of credit, including any amendments, and the
33 demand in writing, by overnight delivery.

34 (iii) If the letter of credit is for purposes of chapter 10, article 1
35 of this title, containing a statement that identifies the statewide
36 collateral pool administrator as the beneficiary.

37 (iv) Containing an issue date and a date of expiration.

38 (c) For the purposes of chapter 10, article 1 of this title, the
39 eligible depository, if notified by the statewide collateral pool
40 administrator, is not allowed to use new letters of credit issued by a
41 federal home loan bank if that federal home loan bank fails to pay a draw
42 request as provided for in the letters of credit or fails to properly
43 complete a confirmation of such letters of credit.

1 H. The securities, instruments or safekeeping receipt for the
2 securities and instruments shall be accepted at market value if not above
3 par, and, if at any time their market value becomes less than the deposit
4 liability to that treasurer, additional securities or instruments required to
5 guarantee deposits shall be deposited immediately with the treasurer who made
6 the deposit and deposited by the eligible depository in which the deposit was
7 made.

8 I. The condition of the surety bond, or the deposit of securities,
9 instruments or a safekeeping receipt, must be such that the eligible
10 depository will promptly pay to the parties entitled public monies in its
11 custody, ~~upon~~ ON lawful demand, and will, when required by law, pay the
12 monies to the treasurer making the deposit.

13 J. Notwithstanding the requirements of this section, any institution
14 qualifying as an eligible depository may accept deposits of public monies to
15 the total then authorized insurance of accounts, insured by federal deposit
16 insurance, without depositing a surety bond or securities in lieu of the
17 surety bond.

18 K. An eligible depository shall report monthly to the treasurer the
19 total deposits of that treasurer and the par value and the market value of
20 any pledged collateral securing those deposits.

21 L. When a security or instrument pledged as collateral matures or is
22 called for redemption, the cash received for the security or instrument shall
23 be held in place of the security until the depository has obtained a written
24 release or provided substitute securities or instruments.

25 M. The surety bond, securities, instruments or safekeeping receipt of
26 an eligible depository shall be deposited with the treasurer making the
27 deposit, and the treasurer shall be the custodian of the bond, securities,
28 instruments or safekeeping receipt. The treasurer may then deposit with the
29 depository public monies then in the treasurer's possession in accordance
30 with this article, but not in an amount in excess of the surety bond,
31 securities, instruments or safekeeping receipt deposited, except for federal
32 deposit insurance.

33 N. The following restrictions on investments are applicable:

34 1. An investment of public operating fund monies shall not be invested
35 for a maturity of longer than five years.

36 2. The board of deposit may order the treasurer to sell any of the
37 securities, and any order shall specifically describe the securities and fix
38 the date ~~upon~~ ON which they are to be sold. Securities so ordered to be sold
39 shall be sold for cash by the treasurer on the date fixed in the order, at
40 the then current market price. The treasurer and the members of the board
41 are not accountable for any loss occasioned by sales of securities at prices
42 lower than their cost. Any loss or expense shall be charged against earnings
43 received from investment of public funds.

1 3. Investments shall not be made in companies identified pursuant to
2 section 35-392, subsection A, paragraph 1.

3 0. If the total amount of subdivision monies available for deposit at
4 any time is less than the maximum coverage amount of the federal deposit
5 insurance corporation, the subdivision board of deposit shall award the
6 deposit of the funds to an eligible depository in accordance with an
7 ordinance or resolution of the governing body of the subdivision. Deposits
8 of less than the maximum coverage amount of the federal deposit insurance
9 corporation are not subject to the requirements of this chapter.

10 Sec. 9. Delayed repeal

11 Section 35-319, Arizona Revised Statutes, as added by House Bill 2703,
12 section 4, fifty-second legislature, second regular session, as transmitted
13 to the governor, is repealed:

14 1. From and after the effective date of this act, if the amendments to
15 article X, section 7, Constitution of Arizona, and article XI, Constitution
16 of Arizona, are not approved by a vote of the people at the special election
17 conducted on May 17, 2016.

18 2. From and after June 30, 2025, if the amendments to article X,
19 section 7, Constitution of Arizona, and article XI, Constitution of Arizona,
20 are approved by a vote of the people at the special election conducted on May
21 17, 2016.

22 Sec. 10. Distribution; permanent state trust land fund monies;
23 fiscal years 2016-2017 and 2017-2018

24 Notwithstanding section 35-319, Arizona Revised Statutes, as added by
25 House Bill 2703, section 4, fifty-second legislature, second regular session,
26 as transmitted to the governor, in fiscal years 2016-2017 and 2017-2018, the
27 state treasurer shall make the distributions pursuant to article X, section
28 7, Constitution of Arizona, and sections 37-521, 37-522, 37-523, 37-524 and
29 37-525, Arizona Revised Statutes, on the last business day of each month.

APPROVED BY THE GOVERNOR MAY 18, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House May 6, 2016

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate February 18, 2016,

by the following vote: 26 Ayes,

3 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1348

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 6, 20 16

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

LS Biggs
President of the Senate

Susan Owens
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

6th day of May, 20 16

at 4:23 o'clock P. M.

Trista Longman
Secretary to the Governor

Approved this 18th day of

May

at 9:05 o'clock A M.

Faye I. Ingoy
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 18th day of May, 20 16

at 12:05 o'clock P M.

Michael Reagan
Secretary of State